

interest in other trust property and if the trust would be an investment company (within the meaning of section 351) if it were a corporation, then gain shall be recognized to the transferor.

(b) Exception for pooled income funds

Subsection (a) shall not apply to any transfer to a pooled income fund (within the meaning of section 642(c)(5)).

(Aug. 16, 1954, ch. 736, 68A Stat. 235; Pub. L. 94-455, title XXI, § 2131(e)(1), Oct. 4, 1976, 90 Stat. 1924.)

AMENDMENTS

1976—Pub. L. 94-455 substituted provisions relating to use of trust as an exchange fund for provisions setting forth rule that this part applies only to taxable years beginning after Dec. 31, 1953, and ending after the date of the enactment of this title and exceptions thereto.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment of section by Pub. L. 94-455 effective on Apr. 8, 1976, in taxable years ending on or after such date, see section 2131(f)(6) of Pub. L. 94-455, set out as a note under section 584 of this title.

§ 684. Recognition of gain on certain transfers to certain foreign trusts and estates

(a) In general

Except as provided in regulations, in the case of any transfer of property by a United States person to a foreign estate or trust, for purposes of this subtitle, such transfer shall be treated as a sale or exchange for an amount equal to the fair market value of the property transferred, and the transferor shall recognize as gain the excess of—

- (1) the fair market value of the property so transferred, over
- (2) the adjusted basis (for purposes of determining gain) of such property in the hands of the transferor.

(b) Exception

Subsection (a) shall not apply to a transfer to a trust by a United States person to the extent that any person is treated as the owner of such trust under section 671.

(c) Treatment of trusts which become foreign trusts

If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.

(Added Pub. L. 105-34, title XI, § 1131(b), Aug. 5, 1997, 111 Stat. 978; amended Pub. L. 107-16, title V, § 542(e)(1)(A)–(C), June 7, 2001, 115 Stat. 84, 85; Pub. L. 111-312, title III, § 301(a), Dec. 17, 2010, 124 Stat. 3300.)

CODIFICATION

Another section 1131(b) of Pub. L. 105-34 amended sections 367, 721, and 1035 of this title.

AMENDMENTS

2010—Pub. L. 111-312 amended catchline, introductory provisions of subsec. (a), and subsec. (b) to read as if amendment by Pub. L. 107-16, § 542(e)(1)(A)–(C), had never been enacted. See 2001 Amendment note below. Prior to amendment, subsec. (b) read as follows: “EXCEPTIONS.—

“(1) TRANSFERS TO CERTAIN TRUSTS.—Subsection (a) shall not apply to a transfer to a trust by a United States person to the extent that any United States person is treated as the owner of such trust under section 671.

“(2) LIFETIME TRANSFERS TO NONRESIDENT ALIENS.—Subsection (a) shall not apply to a lifetime transfer to a nonresident alien.”

2001—Pub. L. 107-16, § 542(e)(1)(A)–(C), amended section by inserting “and nonresident aliens” after “estates” in section catchline and “or to a nonresident alien” after “or trust” in introductory provisions of subsec. (a) and amending subsec. (b) generally. Prior to amendment, text of subsec. (b) read as follows: “Subsection (a) shall not apply to a transfer to a trust by a United States person to the extent that any person is treated as the owner of such trust under section 671.”

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-312 applicable to estates of decedents dying, and transfers made after Dec. 31, 2009, except as otherwise provided, see section 301(e) of Pub. L. 111-312, set out as an Effective and Termination Dates of 2010 Amendment note under section 121 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to transfers after Dec. 31, 2009, see section 542(f)(2) of Pub. L. 107-16, set out as a note under section 121 of this title.

§ 685. Treatment of funeral trusts

(a) In general

In the case of a qualified funeral trust—

- (1) subparts B, C, D, and E shall not apply, and
- (2) no deduction shall be allowed by section 642(b).

(b) Qualified funeral trust

For purposes of this subsection, the term “qualified funeral trust” means any trust (other than a foreign trust) if—

- (1) the trust arises as a result of a contract with a person engaged in the trade or business of providing funeral or burial services or property necessary to provide such services,
- (2) the sole purpose of the trust is to hold, invest, and reinvest funds in the trust and to use such funds solely to make payments for such services or property for the benefit of the beneficiaries of the trust,
- (3) the only beneficiaries of such trust are individuals with respect to whom such services or property are to be provided at their death under contracts described in paragraph (1),
- (4) the only contributions to the trust are contributions by or for the benefit of such beneficiaries,
- (5) the trustee elects the application of this subsection, and
- (6) the trust would (but for the election described in paragraph (5)) be treated as owned under subpart E by the purchasers of the contracts described in paragraph (1).

A trust shall not fail to be treated as meeting the requirement of paragraph (6) by reason of the death of an individual but only during the 60-day period beginning on the date of such death.

(c) Application of rate schedule

Section 1(e) shall be applied to each qualified funeral trust by treating each beneficiary's interest in each such trust as a separate trust.